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SUBJECT: HATE CRIME MEETING HIGHLIGHTS REMAINING CHALLENGES

Classified By: Political Counselor Samuel Laeuchli for reasons 1.4 (b) and (d).

11. (SBU) SUMMARY AND COMMENT: The June 16-17 Meeting of the National Points of Contact on Hate Crime organized by the OSCE Office of Democratic Institutions and Human Rights (ODIHR) in Helsinki highlighted the significant challenges that remain in the effort to combat hate crimes. Participation in the meeting was somewhat disappointing, with only two-thirds of the delegations represented and the ban on NGO participation was unfortunate for the precedent it set. On the substantive side, there is still no consensus on the basic definition of a hate crime, although agreement was reached that a lack of meaningful, reliable and consistent data on hate crimes makes trend analysis on the issue difficult. Many delegations commented that the draft 2007 Hate Crime Report was too long and needed revision.

12. (SBU) This was the first meeting organized by ODIHR for the focal points on Hate Crime, so it is perhaps not surprising that the results and participation were less than ideal. However, we are concerned that ODIHR's Tolerance and Non-Discrimination (TND) unit, both in this meeting and in the draft Hate Crime Report for 2007, appears to endorse limits on the freedom of expression, assembly and association in order to battle hate crimes effectively. END SUMMARY AND COMMENT

AMBITIOUS AGENDA

13. (C) The June 16-17 Meeting of the National Points of Contact on Hate Crime was developed as a "training session" for the focal points on hate crimes that were designated by the participating States and as a forum where delegations could exchange experiences and best practices in dealing with and preventing hate crimes in the OSCE region. It was envisaged that there would be greater agreement on the roles and responsibilities of the focal points, definitions related to hate crimes, and on the frequency of future meetings. However, more than one-third of the participating States did not attend the meeting, including key States such as France, Norway, Turkey, Denmark, the Netherlands, Portugal and incoming OSCE Chairman Greece.

14. (C) The disparity in areas and levels of expertise among the delegations, (focal points came from Ministries of Foreign Affairs, Justice and/or Interior, human rights institutions, judicial and/or police units, prosecutors offices and anti-discrimination bodies) made in-depth discussion of the technical issues difficult. The lack of NGO participation was unfortunate for the precedent it set. (NOTE: USOSCE had urged both ODIHR and the CiO to allow NGO participation in the event. In a last-minute concession, the Finns organized an NGO meeting the Sunday before the event with NGO recommendations presented at the first session. U.S.-based Human Rights First was the only non-Finnish NGO present for this meeting. END NOTE).

DIVERGENT VIEWS ON DEFINITIONS/PRIORITIES

15. (SBU) The CIO's Three Personal Representatives on Tolerance, who moderated the session on trends and issues related to hate crime, noted that basic definitions related to hate crime issues have not yet been established in the OSCE area. The ODIHR distributed descriptions of various categories of intolerance were deemed inadequate for legislative and law enforcement purposes because they were descriptive rather than legal in nature. Anastasia Crickley, the Personal Representative on Tolerance dealing with Racism, Xenophobia and Discrimination against Christians and Members of other Religions, said the OSCE should be a norm-setting organization and definitions need to be tested and contested constantly due to the political nature of the topic. She said the OSCE hate crime program is too ambitious, noting that in Europe, the OSCE is third in importance in dealing with this issue, with the EU and the Council of Europe in the forefront. She continued that there is insufficient and inadequate data with which to conduct any kind of trend analysis on hate crimes.

DATA COLLECTION AND LEGISLATIVE CHALLENGES REMAIN

16. (SBU) ODIHR's Hate crimes report demonstrated a wide disparity in data collection. In essence, countries doing a good job in reporting hate incidents to ODIHR are made to appear to have the biggest problems. Sweden reported 3,500 hate incidents whereas the Russian Federation only 170. Some

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countries such as Kazakhstan and Azerbaijan report no hate crimes at all. While ODIHR continues to work on a template for standardized hate crime data reporting, the large differences in legislative definitions of hate crimes and even larger gaps in data collection efforts remain significant challenges. Representative Crickley noted pointedly that collection of available data does not equate with detailed research and that the report is simply a snapshot of what the ODIHR was able to see.

COMMENT

17. (C) The ODIHR effort to deal with the issue of hate crimes is an excellent work in progress though significant challenges remain. There is no OSCE consensus on such fundamental issues as the definition of a hate crime. Data collection is problematic and trend analysis suffers accordingly.

18. (C) It is a matter of some concern that some ODIHR staff appears to have come to the conclusion that effectively battling hate crimes may require criminalizing speech and putting limits on freedoms of expression, association and assembly. Large portions of the draft Hate Crime report discussed during the Helsinki meeting deal with incidents (such as speeches, political campaigns, media broadcasts, websites, and public demonstrations) that are not crimes" and do not violate OSCE commitments. In discussing concern about non-violent manifestations of hate and intolerance, the Report says that "Recognizing the core values" (freedoms of association, assembly and expression) "encapsulated in these rights does not imply that no restrictions are permissible to individuals or groups who use these rights to create intolerance and hatred" and "many States have imposed limitations on what opinions can be disseminated and how." The report concluded that "Many States have made international commitments to restrict rights to assembly and expression under certain circumstances." End Comment
FINLEY